
SENATE BILL 6399

State of Washington

65th Legislature

2018 Regular Session

By Senators Becker, Cleveland, Rivers, Brown, Bailey, and Fain

1 AN ACT Relating to telemedicine payment parity; amending RCW
2 48.43.735, 41.05.700, and 74.09.325; adding a new section to chapter
3 43.41 RCW; adding a new section to chapter 43.70 RCW; adding a new
4 section to chapter 48.43 RCW; adding a new section to chapter 74.09
5 RCW; adding a new section to chapter 41.05 RCW; creating new
6 sections; and providing an expiration date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature understands that
9 telemedicine is an evolving field, and that there are variances
10 between federal and state programs in how services are paid. It is
11 the intent of the legislature to set the groundwork for future
12 payment prospects. One of the legislature's goals for telemedicine is
13 to reduce premiums and overall out-of-pocket spending for patients.
14 The legislature understands that telemedicine has the potential to
15 save lives, prevent unnecessary visits to the emergency room, and
16 help address the opioid epidemic. Telemedicine provides increasingly
17 cohesive care in the areas of telestroke, diabetes, mental health,
18 dermatology, and more. The legislature intends to provide services,
19 including preventive, follow-up, and lifesaving treatments by
20 utilizing telemedicine, and to improve outcomes for patients.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.41
2 RCW to read as follows:

3 (1) The office shall establish a telemedicine payment parity
4 pilot program to provide parity in reimbursement for certain health
5 care services. The duration of the pilot program will be five years,
6 beginning January 1, 2019, and ending December 31, 2023.

7 (2) For health plans issued or renewed on or after January 1,
8 2019, health carriers subject to the requirements in RCW 48.43.735,
9 health plans offered to employees and their covered dependents
10 subject to the requirements of RCW 41.05.700, and managed health care
11 systems subject to the requirements of RCW 74.09.325 shall reimburse
12 a provider for the following health care services provided to a
13 covered person through telemedicine and store and forward technology,
14 at the same rate as if the health care service was provided in person
15 by the provider, and consistent with the requirements in RCW
16 48.43.735(1), 41.05.700(1), and 74.09.325(1):

17 (a) Diabetes;

18 (b) Telestroke;

19 (c) Telepsychology; and

20 (d) Treatment for opioid use disorder.

21 (3) The only services using telemedicine and store and forward
22 technology that may be considered for the purposes of this pilot
23 program are services provided through conventional contracting by
24 carriers.

25 (4) The reimbursement requirements for services listed in this
26 section expire December 31, 2023.

27 (5) In the event a twenty percent or greater savings has been
28 achieved for the four conditions listed in subsection (2)(a) through
29 (d) of this section, all services provided utilizing telemedicine and
30 store and forward technology shall be paid, beginning January 1,
31 2024, at the same rate as services delivered in person.

32 **Sec. 3.** RCW 48.43.735 and 2017 c 219 s 1 are each amended to
33 read as follows:

34 (1) For health plans issued or renewed on or after January 1,
35 2017, a health carrier shall reimburse a provider for a health care
36 service provided to a covered person through telemedicine or store
37 and forward technology if:

38 (a) The plan provides coverage of the health care service when
39 provided in person by the provider;

1 (b) The health care service is medically necessary;

2 (c) The health care service is a service recognized as an
3 essential health benefit under section 1302(b) of the federal patient
4 protection and affordable care act in effect on January 1, 2015; and

5 (d) The health care service is determined to be safely and
6 effectively provided through telemedicine or store and forward
7 technology according to generally accepted health care practices and
8 standards, and the technology used to provide the health care service
9 meets the standards required by state and federal laws governing the
10 privacy and security of protected health information.

11 (2) For health plans issued or renewed on or after January 1,
12 2019, a health carrier shall comply with the requirements of the
13 telemedicine payment parity pilot program created in section 2 of
14 this act.

15 (3)(a) If the service is provided through store and forward
16 technology there must be an associated office visit between the
17 covered person and the referring health care provider. Nothing in
18 this section prohibits the use of telemedicine for the associated
19 office visit.

20 (b) For purposes of this section, reimbursement of store and
21 forward technology is available only for those covered services
22 specified in the negotiated agreement between the health carrier and
23 the health care provider.

24 ~~((3))~~ (4) An originating site for a telemedicine health care
25 service subject to subsection (1) of this section includes a:

26 (a) Hospital;

27 (b) Rural health clinic;

28 (c) Federally qualified health center;

29 (d) Physician's or other health care provider's office;

30 (e) Community mental health center;

31 (f) Skilled nursing facility;

32 (g) Home or any location determined by the individual receiving
33 the service; or

34 (h) Renal dialysis center, except an independent renal dialysis
35 center.

36 ~~((4) Except for subsection (3)(g) of this section, any~~
37 ~~originating site under subsection (3) of this section may charge a~~
38 ~~facility fee for infrastructure and preparation of the patient.~~
39 ~~Reimbursement must be subject to a negotiated agreement between the~~
40 ~~originating site and the health carrier. A distant site or any other~~

1 ~~site not identified in subsection (3) of this section may not charge~~
2 ~~a facility fee.))~~

3 (5) No hospital facility fees may be charged when providing
4 services utilizing telemedicine and store and forward technology for
5 services provided for the four conditions listed in section 2(2) (a)
6 through (d) of this act. The originating site provider shall be
7 reimbursed at the contracted rate in the same way as the provider
8 would be reimbursed for an in-person visit.

9 (6) A health carrier may not distinguish between originating
10 sites that are rural and urban in providing the coverage required in
11 subsection (1) of this section.

12 ~~((+6+))~~ (7) A health carrier may subject coverage of a
13 telemedicine or store and forward technology health service under
14 subsection (1) of this section to all terms and conditions of the
15 plan in which the covered person is enrolled including, but not
16 limited to, utilization review, prior authorization, deductible,
17 copayment, or coinsurance requirements that are applicable to
18 coverage of a comparable health care service provided in person.

19 ~~((+7+))~~ (8) This section does not require a health carrier to
20 reimburse:

- 21 (a) An originating site for professional fees;
22 (b) A provider for a health care service that is not a covered
23 benefit under the plan; ~~((+8+))~~
24 (c) An originating site or health care provider when the site or
25 provider is not a contracted provider under the plan; or
26 (d) A provider who has not completed the required training as
27 established in section 7 of this act.

28 ~~((+8+))~~ (9) For purposes of this section:

- 29 (a) "Distant site" means the site at which a physician or other
30 licensed provider, delivering a professional service, is physically
31 located at the time the service is provided through telemedicine;
32 (b) "Health care service" has the same meaning as in RCW
33 48.43.005;
34 (c) "Hospital" means a facility licensed under chapter 70.41,
35 71.12, or 72.23 RCW;
36 (d) "Originating site" means the physical location of a patient
37 receiving health care services through telemedicine;
38 (e) "Provider" has the same meaning as in RCW 48.43.005;
39 (f) "Store and forward technology" means use of an asynchronous
40 transmission of a covered person's medical information from an

1 originating site to the health care provider at a distant site which
2 results in medical diagnosis and management of the covered person,
3 and does not include the use of audio-only telephone, facsimile, or
4 email; and

5 (g) "Telemedicine" means the delivery of health care services
6 through the use of interactive audio and video technology, permitting
7 real-time communication between the patient at the originating site
8 and the provider, for the purpose of diagnosis, consultation, or
9 treatment. For purposes of this section only, "telemedicine" does not
10 include the use of audio-only telephone, facsimile, or email.

11 **Sec. 4.** RCW 41.05.700 and 2017 c 219 s 2 are each amended to
12 read as follows:

13 (1) A health plan offered to employees and their covered
14 dependents under this chapter issued or renewed on or after January
15 1, 2017, shall reimburse a provider for a health care service
16 provided to a covered person through telemedicine or store and
17 forward technology if:

18 (a) The plan provides coverage of the health care service when
19 provided in person by the provider;

20 (b) The health care service is medically necessary;

21 (c) The health care service is a service recognized as an
22 essential health benefit under section 1302(b) of the federal patient
23 protection and affordable care act in effect on January 1, 2015; and

24 (d) The health care service is determined to be safely and
25 effectively provided through telemedicine or store and forward
26 technology according to generally accepted health care practices and
27 standards, and the technology used to provide the health care service
28 meets the standards required by state and federal laws governing the
29 privacy and security of protected health information.

30 (2) For health plans issued or renewed on or after January 1,
31 2019, a health plan offered to employees and their covered dependents
32 under this chapter shall comply with the requirements of the
33 telemedicine payment parity pilot program created in section 2 of
34 this act.

35 (3)(a) If the service is provided through store and forward
36 technology there must be an associated office visit between the
37 covered person and the referring health care provider. Nothing in
38 this section prohibits the use of telemedicine for the associated
39 office visit.

1 (b) For purposes of this section, reimbursement of store and
2 forward technology is available only for those covered services
3 specified in the negotiated agreement between the health plan and
4 health care provider.

5 ~~((3))~~ (4) An originating site for a telemedicine health care
6 service subject to subsection (1) of this section includes a:

7 (a) Hospital;

8 (b) Rural health clinic;

9 (c) Federally qualified health center;

10 (d) Physician's or other health care provider's office;

11 (e) Community mental health center;

12 (f) Skilled nursing facility;

13 (g) Home or any location determined by the individual receiving
14 the service; or

15 (h) Renal dialysis center, except an independent renal dialysis
16 center.

17 ~~((4) Except for subsection (3)(g) of this section, any
18 originating site under subsection (3) of this section may charge a
19 facility fee for infrastructure and preparation of the patient.
20 Reimbursement must be subject to a negotiated agreement between the
21 originating site and the health plan. A distant site or any other
22 site not identified in subsection (3) of this section may not charge
23 a facility fee.))~~

24 (5) No hospital facility fees may be charged when providing
25 services utilizing telemedicine and store and forward technology for
26 services provided for the four conditions listed in section 2(2) (a)
27 through (d) of this act. The originating site provider shall be
28 reimbursed at the contracted rate in the same way as the provider
29 would be reimbursed for an in-person visit.

30 (6) The plan may not distinguish between originating sites that
31 are rural and urban in providing the coverage required in subsection
32 (1) of this section.

33 ~~((6))~~ (7) The plan may subject coverage of a telemedicine or
34 store and forward technology health service under subsection (1) of
35 this section to all terms and conditions of the plan including, but
36 not limited to, utilization review, prior authorization, deductible,
37 copayment, or coinsurance requirements that are applicable to
38 coverage of a comparable health care service provided in person.

39 ~~((7))~~ (8) This section does not require the plan to reimburse:

40 (a) An originating site for professional fees;

1 (b) A provider for a health care service that is not a covered
2 benefit under the plan; (~~(e)~~)

3 (c) An originating site or health care provider when the site or
4 provider is not a contracted provider under the plan; or

5 (d) A provider who has not completed the required training as
6 established in section 7 of this act.

7 (~~(8)~~) (9) For purposes of this section:

8 (a) "Distant site" means the site at which a physician or other
9 licensed provider, delivering a professional service, is physically
10 located at the time the service is provided through telemedicine;

11 (b) "Health care service" has the same meaning as in RCW
12 48.43.005;

13 (c) "Hospital" means a facility licensed under chapter 70.41,
14 71.12, or 72.23 RCW;

15 (d) "Originating site" means the physical location of a patient
16 receiving health care services through telemedicine;

17 (e) "Provider" has the same meaning as in RCW 48.43.005;

18 (f) "Store and forward technology" means use of an asynchronous
19 transmission of a covered person's medical information from an
20 originating site to the health care provider at a distant site which
21 results in medical diagnosis and management of the covered person,
22 and does not include the use of audio-only telephone, facsimile, or
23 email; and

24 (g) "Telemedicine" means the delivery of health care services
25 through the use of interactive audio and video technology, permitting
26 real-time communication between the patient at the originating site
27 and the provider, for the purpose of diagnosis, consultation, or
28 treatment. For purposes of this section only, "telemedicine" does not
29 include the use of audio-only telephone, facsimile, or email.

30 **Sec. 5.** RCW 74.09.325 and 2017 c 219 s 3 are each amended to
31 read as follows:

32 (1) Upon initiation or renewal of a contract with the Washington
33 state health care authority to administer a medicaid managed care
34 plan, a managed health care system shall reimburse a provider for a
35 health care service provided to a covered person through telemedicine
36 or store and forward technology if:

37 (a) The medicaid managed care plan in which the covered person is
38 enrolled provides coverage of the health care service when provided
39 in person by the provider;

1 (b) The health care service is medically necessary;

2 (c) The health care service is a service recognized as an
3 essential health benefit under section 1302(b) of the federal patient
4 protection and affordable care act in effect on January 1, 2015; and

5 (d) The health care service is determined to be safely and
6 effectively provided through telemedicine or store and forward
7 technology according to generally accepted health care practices and
8 standards, and the technology used to provide the health care service
9 meets the standards required by state and federal laws governing the
10 privacy and security of protected health information.

11 (2) For medicaid managed care plans issued or renewed on or after
12 January 1, 2019, a managed health care system shall comply with the
13 requirements of the telemedicine payment parity pilot program created
14 in section 2 of this act.

15 (3)(a) If the service is provided through store and forward
16 technology there must be an associated visit between the covered
17 person and the referring health care provider. Nothing in this
18 section prohibits the use of telemedicine for the associated office
19 visit.

20 (b) For purposes of this section, reimbursement of store and
21 forward technology is available only for those services specified in
22 the negotiated agreement between the managed health care system and
23 health care provider.

24 ~~((3))~~ (4) An originating site for a telemedicine health care
25 service subject to subsection (1) of this section includes a:

26 (a) Hospital;

27 (b) Rural health clinic;

28 (c) Federally qualified health center;

29 (d) Physician's or other health care provider's office;

30 (e) Community mental health center;

31 (f) Skilled nursing facility;

32 (g) Home or any location determined by the individual receiving
33 the service; or

34 (h) Renal dialysis center, except an independent renal dialysis
35 center.

36 ~~((4) Except for subsection (3)(g) of this section, any~~
37 ~~originating site under subsection (3) of this section may charge a~~
38 ~~facility fee for infrastructure and preparation of the patient.~~
39 ~~Reimbursement must be subject to a negotiated agreement between the~~
40 ~~originating site and the managed health care system. A distant site~~

1 ~~or any other site not identified in subsection (3) of this section~~
2 ~~may not charge a facility fee.))~~

3 (5) No hospital facility fees may be charged when providing
4 services utilizing telemedicine and store and forward technology for
5 services provided for the four conditions listed in section 2(2) (a)
6 through (d) of this act. The originating site provider shall be
7 reimbursed at the contracted rate in the same way as the provider
8 would be reimbursed for an in-person visit.

9 (6) A managed health care system may not distinguish between
10 originating sites that are rural and urban in providing the coverage
11 required in subsection (1) of this section.

12 ~~((+6))~~ (7) A managed health care system may subject coverage of
13 a telemedicine or store and forward technology health service under
14 subsection (1) of this section to all terms and conditions of the
15 plan in which the covered person is enrolled including, but not
16 limited to, utilization review, prior authorization, deductible,
17 copayment, or coinsurance requirements that are applicable to
18 coverage of a comparable health care service provided in person.

19 ~~((+7))~~ (8) This section does not require a managed health care
20 system to reimburse:

21 (a) An originating site for professional fees;

22 (b) A provider for a health care service that is not a covered
23 benefit under the plan; ~~((+8))~~

24 (c) An originating site or health care provider when the site or
25 provider is not a contracted provider under the plan; or

26 (d) A provider who has not completed the required training as
27 established in section 7 of this act.

28 ~~((+8))~~ (9) For purposes of this section:

29 (a) "Distant site" means the site at which a physician or other
30 licensed provider, delivering a professional service, is physically
31 located at the time the service is provided through telemedicine;

32 (b) "Health care service" has the same meaning as in RCW
33 48.43.005;

34 (c) "Hospital" means a facility licensed under chapter 70.41,
35 71.12, or 72.23 RCW;

36 (d) "Managed health care system" means any health care
37 organization, including health care providers, insurers, health care
38 service contractors, health maintenance organizations, health
39 insuring organizations, or any combination thereof, that provides
40 directly or by contract health care services covered under this

1 chapter and rendered by licensed providers, on a prepaid capitated
2 basis and that meets the requirements of section 1903(m)(1)(A) of
3 Title XIX of the federal social security act or federal demonstration
4 waivers granted under section 1115(a) of Title XI of the federal
5 social security act;

6 (e) "Originating site" means the physical location of a patient
7 receiving health care services through telemedicine;

8 (f) "Provider" has the same meaning as in RCW 48.43.005;

9 (g) "Store and forward technology" means use of an asynchronous
10 transmission of a covered person's medical information from an
11 originating site to the health care provider at a distant site which
12 results in medical diagnosis and management of the covered person,
13 and does not include the use of audio-only telephone, facsimile, or
14 email; and

15 (h) "Telemedicine" means the delivery of health care services
16 through the use of interactive audio and video technology, permitting
17 real-time communication between the patient at the originating site
18 and the provider, for the purpose of diagnosis, consultation, or
19 treatment. For purposes of this section only, "telemedicine" does not
20 include the use of audio-only telephone, facsimile, or email.

21 ~~((+9))~~ (10) To measure the impact on access to care for
22 underserved communities and costs to the state and the medicaid
23 managed health care system for reimbursement of telemedicine
24 services, the Washington state health care authority, using existing
25 data and resources, shall provide a report to the appropriate policy
26 and fiscal committees of the legislature no later than December 31,
27 2018.

28 NEW SECTION. **Sec. 6.** (1) Within existing resources, the state
29 auditor's office shall conduct an actuarial review of the
30 telemedicine payment parity pilot program created in section 2 of
31 this act. Data to be collected will be through a customized reporting
32 mechanism to be determined by the collaborative for the advancement
33 of telemedicine created in section 2, chapter 68, Laws of 2016, and
34 provided to the state auditor's office no later than December 31,
35 2018.

36 (2) The state auditor's review shall:

37 (a) Aggregate baseline data for comparison purposes. Baseline
38 data must include claims from the four conditions listed in section
39 2(2) (a) through (d) of this act, utilizing claims data from the

1 statewide all-payer health care claims database established in RCW
2 43.371.020 for in-person encounters from 2013 to 2018;

3 (b) Collect data on encounters based on the four conditions
4 listed in section 2(2) (a) through (d) of this act, utilizing claims
5 data from the statewide all-payer health care claims database
6 established in RCW 43.371.020 for services provided using
7 telemedicine and store and forward technology from 2019 to 2023; and

8 (c) Create a five-year cost curve based on the collected data.

9 (3) This section expires December 31, 2023.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.70
11 RCW to read as follows:

12 Health care professionals certified or licensed under Title 18
13 RCW whose scope includes the ability to deliver health care services
14 by telemedicine must complete telemedicine training created by the
15 University of Washington telehealth services. The telemedicine
16 training created by the University of Washington telehealth services
17 shall include, but not be limited to, education about telemedicine
18 and proper billing methodologies.

19 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.43
20 RCW to read as follows:

21 (1) Every insurer providing professional liability insurance for
22 a health care provider shall ensure that every policy that is issued,
23 amended, or renewed in this state in or after the year 2019, shall
24 provide malpractice coverage for telemedicine that shall be
25 equivalent to coverage for the same services provided via face-to-
26 face contact between a health care provider and a patient.

27 (2) An insurer providing professional liability insurance
28 policies may not require face-to-face contact between a health care
29 provider and a patient as a prerequisite for coverage of services
30 appropriately provided through telemedicine in accordance with
31 generally accepted health care practices and standards prevailing in
32 the applicable professional community at the time the services were
33 provided. The coverage required in this section may be subject to all
34 terms and conditions of the policy agreed upon between the health
35 care provider and the insurance carrier.

36 NEW SECTION. **Sec. 9.** A new section is added to chapter 74.09
37 RCW to read as follows:

1 (1) Every medicaid managed health care system providing
2 professional liability insurance for a health care provider shall
3 ensure that every policy that is issued, amended, or renewed in this
4 state in or after the year 2019, shall provide malpractice coverage
5 for telemedicine that shall be equivalent to coverage for the same
6 services provided via face-to-face contact between a health care
7 provider and a patient.

8 (2) A medicaid managed health care system providing professional
9 liability insurance policies may not require face-to-face contact
10 between a health care provider and a patient as a prerequisite for
11 coverage of services appropriately provided through telemedicine in
12 accordance with generally accepted health care practices and
13 standards prevailing in the applicable professional community at the
14 time the services were provided. The coverage required in this
15 section may be subject to all terms and conditions of the policy
16 agreed upon between the health care provider and the medicaid managed
17 health care system.

18 NEW SECTION. **Sec. 10.** A new section is added to chapter 41.05
19 RCW to read as follows:

20 (1) Every health plan providing professional liability insurance
21 for a health care provider shall ensure that every policy that is
22 issued, amended, or renewed in this state in or after the year 2019,
23 shall provide malpractice coverage for telemedicine that shall be
24 equivalent to coverage for the same services provided via face-to-
25 face contact between a health care provider and a patient.

26 (2) A health plan providing professional liability insurance
27 policies may not require face-to-face contact between a health care
28 provider and a patient as a prerequisite for coverage of services
29 appropriately provided through telemedicine in accordance with
30 generally accepted health care practices and standards prevailing in
31 the applicable professional community at the time the services were
32 provided. The coverage required in this section may be subject to all
33 terms and conditions of the policy agreed upon between the health
34 care provider and the health plan.

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